IN THE HIGH COURT OF ANDHRA PRADESH
AT HYDERABAD

W.P.No.3432 of 2001

Between:

1. K.Narasimha Reddy and another.

..Petitioners

and

1. The District Collector, (Panchayats)
   Cchittoor, Chitoor District and others.

..Respondents

THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.3432 of 2001

Oral Order:

Petitioners filed this writ petition to declare the auction notice issued by the respondents in proposing to conduct auction of leasehold rights of fishing rights in Perumalla Cheruvu, Nallamgadu Village, Bangarupalam Mandal, Chittoor District for the year 2001-2002 as arbitrary and illegal and direct the respondents to desist from interfering with the fishery rights exercised by the petitioners.

The petitioners claim that tank in question is situated in Sy.No.107 and spread over to an extent of Ac.15.64 cts. The erstwhile Government granted fishery rights to their ancestors to catch fish in the above tank in the year 1916 and ever since petitioners' ancestors and thereafter the petitioners are catching the fish by paying necessary fee to the Government. While so, the Sarpanch of Nallamgadu Gram Panchayat sought to auction the leasehold rights of fishing in the above tank; therefore, they filed O.S.No.218 of 1976 before the II Additional District Munsif, Chittoor against the Gram Panchayat. On dismissal of the suit they carried the matter in appeal—A.S.No.166 of 1981 on the file of Principal Subordinate Judge, Chittoor, which was allowed holding that minor irrigation tanks no doubt vests in the Gram Panchayat, but it cannot connote divesting of rights and interests vested in it. The Gram Panchayat has not preferred any appeal against the said judgment and the same has become final.

The District Panchayat Officer—2nd respondent filed a counter stating that all minor irrigation tanks and reservoirs are vested with Gram Panchayat. The patta granted to the ancestors of the petitioners exist for a period of 30 years as per the orders issued in 1916 and expired long back. Therefore, a show cause notice was issued by the Collector in Roc.No.1050/87 A5 (Pts) dated 06-11-1996 calling upon the petitioners and others why the Machya Pattas granted to them should not be cancelled in view of provisions of A.P. Panchayat Raj Act, 1994. The petitioners have not submitted any explanation to the said notice. In view of the same, the Extension Officer (Pts.) was directed to conduct auction of the fishery rights of all minor irrigation tanks and accordingly he has given notice and proposed to conduct auction on 21-02-2001 but in view of the villagers protest auction could not be proceeded, meanwhile the present writ petition has been filed.

No reply has been filed by the petitioners adverting the said facts.

Learned counsel for the petitioners across the Bar submits that the petitioners were never served with such show cause notice; therefore, submitting explanation does not arise.

Having regard to the submission, referred to above, the District Collector shall communicate a copy of the show cause notice issued earlier along with covering letter, calling upon the petitioners to submit their explanation to the show cause notice, within two weeks from today and on issuance of show cause notice petitioners have to submit their explanation within three weeks from the date of receipt of show cause notice. On submission of explanation and after giving reasonable opportunity to the petitioners the Collector shall pass

appropriate orders with regard to fishery rights and vesting of tanks in the Gram Panchayat etc.

The writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY, J.

25-07-2007

Murthy